

The Examiner next rejects claims 3, 24, 26, 36 and 47 under 35 U.S.C. 102 as being anticipated by Spanish Utility Model 289561 to Iriarte. In doing so, the Examiner first contends with respect to claim 3 that the body 2 of this Spanish reference serves as a flexible truss and that elastic strip 1 of that reference serves as a resilient member which is devoid of adhesive on the surface thereof facing the skin on the bridge of the user's nose to meet this claim in the absence of a positive recitation therein of adhesive on this member. The applicant believes the above amendment has provided such a recitation in claim 3, and so that this rejection is overcome. In addition, claims 24 and 26, in depending on claim 3 should also be allowable, particularly claim 26 reciting a separating material between the remainder of the truss and a user's nose which is not remotely suggested in the Iriarte reference.

As to claims 36 and 47, the applicant has amended those claims to alternatively word them insofar as the surface orientations of the resilient member in contact with an adhesive. This clarification the applicant believes makes even clearer the presence of an adhesive on a surface of the resilient band facing the user during use, a configuration definitely not shown in connection with the elastic strip of the Spanish reference.

The Examiner further continues by rejecting claims 32 through 34, 37, 38, 45, 46 and 48 under 35 U.S.C. 103 as being obvious in the face of the Spanish reference. Claim 32 has also been amended to an alternative wording with respect to the surface orientations of the resilient member in contact with an adhesive as with claims 36 and 47, and should now be similarly allowable. Thus, claims 33, 34 and 45, in depending on claim 32, should also be allowable as should claims 37, 38 and 46 in depending on claim 36 and claim 48 in depending on claim 47. This is especially true of claims 34 and 37 directed to plural resilient members. Nothing whatsoever is disclosed in the Spanish reference concerning more than one elastic strip and, clearly, there is no suggestion of providing such as the dilator shown has no room for any similar additional elastic strip. There is nothing disclosed in that reference either about any of the advantages following from spaced strips including increased flexibility to accommodate nose wrinkling and the unblocking of skin access to the atmosphere through porous cloth to improve evaporation of skin moisture.

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The Examiner then goes on to reject claim 25 under 35 U.S.C. 102 as being anticipated by the Spanish reference. However, claim 25 depends on claim 3, and therefore should be allowable if claim 3 is allowable as demonstrated above.

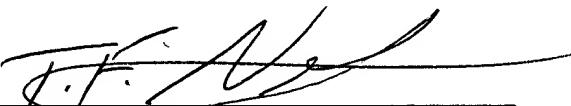
Again, the applicant has chosen not to rewrite claim 35 in independent form at this time because claim 32 on which it depends is believed to have been demonstrated to be allowable in the foregoing. If, however, such a rewriting of claim 35 appears appropriate in the future, the applicant stands ready to do so.

The Commissioner is authorized to charge payment of any patent application processing or filing fees under 37 C.F.R. 1.16 and 1.17 or credit any overpayment to Deposit Account No. 11-0982. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

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